HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • https://hro.house.texas.gov

HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 06, 2019
86th Legislature, Number 59
The House convenes at 10 a.m.
Part One

The bills analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 59

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, May 06, 2019
86th Legislature, Number 59
Part 1

SUBJECT: Creating ombudsman and telehealth pilot for early childhood intervention

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble

0 nays

1 absent — Rose

WITNESSES: For — Chasey Reed-Boston, Bay Area Rehabilitation Center; Stephanie Rubin, Texans Care for Children; Clayton Travis, Texas Pediatric Society; Christie Shaw, West Texas Centers ECI; Lauren Gerken; (*Registered, but did not testify*: Veronda Durden, Guillermo Lopez, Jennifer Peterson, Any Baby Can; Cynthia Humphrey, Association of Substance Abuse Programs; Jacquie Benestante, Autism Society of Texas; Brenda Frizzell, Bluebonnet Trails Community Services; Jason Sabo, Children at Risk; Yuchen Ji, Children's Defense Fund-Texas; Christina Hoppe, Children's Hospital Association of Texas; Chris Masey, Coalition of Texans with Disabilities; Priscilla Camacho, Dallas Regional Chamber; Jolene Sanders, Easterseals; Lauren Rangel, Easterseals Central Texas; Ender Reed, Harris County Commissioners Court; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Tesia Krzeminski, NAMI Austin; Eric Kunish, National Alliance on Mental Illness Austin; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers-Texas Chapter; Gabriela McCann, Hannah Mehta, Protect Texas Fragile Kids; Robin Bradshaw, Protect Texas Fragile Kids, Texas Chargers; Christine Broughal, Texans for Special Education Reform; Marshall Kenderdine, Texas Academy of Family Physicians; Kimberly Kofron, Texas Association for the Education of Young Children; Sarah Crockett, Texas CASA; Leela Rice, Texas Council of Community Centers; Joey Gidseg, Texas Democrats with Disabilities; Michelle Romero, Texas Medical Association; Nancy Walker, Texas Occupational Therapy Association; Linda Litzinger, Texas Parent to Parent; Jennifer Lucy, Texprotects; Kyle Piccola, The Arc of Texas; Ashley Harris and Nataly Sauceda, United Ways of Texas; Knox Kimberly, Upbring; and nine individuals)

Against — None

On — Dana McGrath and Lindsay Rodgers, Health and Human Services Commission; Ed O'Neil and Justin Porter, Texas Education Agency; Doug Danzeiser, Texas Department of Insurance; Jannette Olguin, The Harris Center for Mental Health and IDD; (*Registered, but did not testify*: Joel Schwartz and Meghan Young, Health and Human Services Commission; Jamie Dudensing, Texas Association of Health Plans; Pat Brewer, Texas Department of Insurance; Courtney Arbour, Texas Workforce Commission)

BACKGROUND:

Human Resources Code ch. 73 establishes the early childhood intervention (ECI) program to identify and treat children younger than 3 who are documented as having developmental delay or who have a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Human Resources Code sec. 73.004 requires the governor to appoint an advisory committee to assist the Department of Assistive and Rehabilitative Services with the performance of its duties associated with the ECI program.

Occupations Code sec. 111.001 defines "telemedicine medical service" as a health care service delivered by a licensed physician or a health professional under the supervision of a licensed physician to a patient at a different physical location than the physician or health professional using telecommunications or information technology.

"Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed health professional to a patient at a different physical location than the health professional using telecommunications or information technology.

DIGEST:

CSHB 12 would create a teleconnective pilot program for early childhood intervention (ECI) services, create an ombudsman for ECI service providers, and require a financial evaluation and report on ECI services.

Teleconnective pilot program. The Health and Human Services Commission (HHSC) would have to develop and implement a pilot program to provide ECI services to eligible children through telehealth and telemedicine medical services. HHSC would have to ensure the program aligned with the provision of existing telehealth and telemedicine medical services.

Implementation. The pilot program would be delivered using access points established in one or more education service center regions selected for implementation of the program. Access points could be established through modes HHSC determined appropriate, including in home-based settings and at schools, regional education service centers, and other entities located in an education service center region where the program was implemented.

HHSC would cooperate with the Texas Education Agency (TEA) to select education service center regions in which to implement the program. HHSC and TEA would have to consider each region in which there was a low or inadequate number of ECI service providers or a significant risk of losing service providers and would have to implement the program only in regions where it was reasonable and feasible. HHSC and TEA would have to consider the availability of existing infrastructure when selecting access points.

HHSC would have to ensure that all ECI service providers, including school districts, were allowed to participate in the teleconnective pilot program and provide services both inside and outside a school-based setting. HHSC would have to track the service hours of providers participating in the pilot program.

HHSC would, in consultation with TEA, establish any school-based provider access points under the pilot program and ensure that an adequate number of school-based and non-school-based access points were established in participating regions. TEA would have to develop a training course on the pilot program for the appropriate school district employees.

HHSC would develop and implement the program as soon as practicable after the effective date of the bill, and no later than January 1, 2020.

Enrollment. The executive commissioner of HHSC would establish which eligible children would be automatically enrolled in the pilot program after receiving recommendations from the advisory committee.

The parent, guardian, or other legally authorized representative of an eligible child could opt the child out of the program at any time. A child who was enrolled in the pilot program could receive ECI services through the pilot program only to the extent that the services were available and suitable. Enrollment would not prevent a child from receiving ECI services in the home or other natural environment.

The parent, guardian, or other legally authorized representative of an eligible child would have to be present during an initial screening or evaluation under the pilot program and be given the opportunity to opt out of the pilot program at that time. After a child was enrolled in the pilot program, ECI services could be provided through telecommunications or other information technology.

The executive commissioner of HHSC would have to ensure that provider reimbursement for a telehealth or telemedicine medical service was made at a rate comparable to the rate paid under Medicaid for the provision of the same or similar services. HHSC would have to ensure that the pilot program complied with all federal and state laws on confidentiality of medical information.

Evaluation and report. HHSC would have to submit a report that evaluated the operation of the teleconnective pilot program and make recommendations on its continuation or expansion. The report would have to be submitted to the governor, lieutenant governor, House speaker, and presiding officers of the relevant legislative committees by January 1, 2021.

HHSC also would have to conduct an evaluation to ensure that an adequate number of access points had been established in each education service center region selected for implementation of the program. The evaluation would have to be completed by September 1, 2020, and related provisions would expire January 1, 2021.

Funding. HHSC would have to actively seek and apply for any available federal money to support the pilot program.

The pilot program would expire September 1, 2023.

Provider ombudsman. The executive commissioner of HHSC would designate an ombudsman for ECI service providers. The provider ombudsman's office would be administratively attached to the HHSC ombudsman's office. HHSC could use an alternate title for the ombudsman in provider-directed materials if it would benefit providers' understanding of or access to services.

The ombudsman would serve as a neutral party to assist ECI service providers in resolving issues related to providing those services, including through the STAR Kids managed care program, and would be required to:

- provide dispute and complaint resolution services;
- perform provider protection and advocacy functions;
- collect inquiry and complaint data; and
- submit at least annually a report to HHSC relating to the inquiry and complaint data and make recommendations on how to improve ECI services.

The executive commissioner of HHSC would have to adopt and ensure the use of procedures for reporting, monitoring, and resolving disputes and complaints that are consistent with Medicaid procedures.

Federal funding for ECI services. HHSC would have to request guidance from the federal Centers for Medicare and Medicaid Services or other federal agencies regarding the feasibility of receiving a waiver or other authorization to provide ECI services to children through Medicaid early childhood intervention services if those children were not eligible for Medicaid and did not have private health benefits coverage. As soon as was practicable after receiving that guidance, HHSC would have to prepare a report on how to best provide ECI services to uninsured children through Medicaid. HHSC would have to submit the report to the governor, the lieutenant governor, the House speaker, and the presiding

officers of the relevant legislative committees.

The executive commissioner of HHSC would have to request clear direction and guidance from the federal Centers for Medicare and Medicaid Services on the reimbursement methodology that could be used to provide ECI case management services, including direction on allowable and unallowable costs. Provisions related to reimbursement methodology would expire September 1, 2021.

The Texas Workforce Commission would have to actively seek and apply for federal funding to establish a program to provide workforce development grants that would support education and training for ECI service providers.

Financial evaluation and report. As soon as practicable after the bill's effective date, HHSC would have to consult with TEA and other appropriate state agencies to conduct a financial evaluation of ECI services and a report on that evaluation. The report would have to quantify how ECI services affect other budget strategies, including budget strategies of school districts, regional education service centers, and other affected government entities.

HHSC would have to submit the report to the governor, lieutenant governor, House speaker, and presiding officers of the relevant legislative committees by September 1, 2020.

Implementation. HHSC would have to issue guidance by December 1, 2019, to health benefit plan issuers clarifying that ECI providers would have to file claims using the national provider identifier number and Texas provider identifier number.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the state agency would be required to request the waiver and would be permitted to delay implementation of that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 12 would strengthen the state's early childhood intervention (ECI) program by piloting a telehealth services program to provide ECI services remotely, by requiring a financial evaluation to determine potential long-term cost savings of the ECI program, and by supporting struggling service providers.

Increasing the use of telehealth ECI service provision could reduce the cost of care by allowing eligible children in rural areas to access care from home or local access points. Creating a formal telehealth pilot program would allow providers to more easily adopt remote service options and would provide lawmakers with better information on potential cost savings of extending or expanding the pilot.

Research has shown that ECI can restore or mitigate the effects of developmental delays, making eligible children less likely to require special education services and therapies later in life. This would save taxpayer money that would have otherwise been directed toward those services. By requiring a financial evaluation of the ECI program that would quantify the savings to all relevant budget strategies, the bill would allow lawmakers to better prioritize state funds to maximize the benefits of the program.

Between 2010 and 2018, the ECI program lost 16 providers, increasing the burden on the remaining providers and making it difficult for all eligible children to receive the ECI services that are federally required. CSHB 12 would support providers by creating an ombudsman at HHSC to help resolve issues, collect data, and recommend program improvements.

Service providers also have faced challenges recruiting and retaining a sufficient workforce due to a lack of programs and training. CSHB 12 would address this shortage by directing the Texas Workforce Commission to draw upon any available federal funding to establish a workforce development grant program for providers to educate and train their staff and improve the provision of services.

OPPONENTS SAY:

No concerns identified.

NOTES: According to the Legislative Budget Board, the bill would have a negative fiscal impact of $1.7 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Expanding the cities that pledge state tax revenues for certain projects

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

WITNESSES: For — Jessica Herrera, City of El Paso; Ron Jensen, City of Grand Prairie; Jon Weist, City of Irving; Justin Bragiel, Texas Hotel and Lodging Association; (*Registered, but did not testify*: Jeff Williams, City of Arlington; Ron Bottoms, Tiffany Foster, and David Plauck, City of Baytown; Rob Franke, City of Cedar Hill; Corbin Van Arsdale, City of Cedar Park; Steve Williams, City of Conroe; Tammy Embrey, City of Corpus Christi; Odis Jones, City of Hutto; EA Hoppe, City of Kerrville; Scott Campbell, City of Roanoke; Manny De La Rosa, City of San Benito; Carrie Simmons, City of Seabrook; Rick Rameriz, City of Sugar Land; Richard Boyer, City of The Colony; Edward Broussard, City of Tyler; Kevin Cleveland, City of Weatherford; James Hernandez and Ben Morse, City of Webster; Shannon Overby, Conroe Convention and Visitors Bureau; Jim Short, Fort Bend County; Monty Wynn, Texas Municipal League; Neal T. "Buddy" Jones, Texas Rangers Baseball Club; Rebecca Robinson, Texas Restaurant Association; Ron Hinkle, Texas Travel Industry Association; Tara Mueller)

Against — None

On — (*Registered, but did not testify*: Julio Mendoza-Quiroz and Brad Reynolds, Comptroller of Public Accounts)

BACKGROUND: Tax Code ch. 351 allows certain municipalities to pledge state tax revenue from hotel projects owned by or on land owned by the cities to pay bonds issued in connection with the acquisition, lease, or construction of hotels within 1,000 feet of city-owned convention centers and certain ancillary facilities. The Tax Code and the Government Code authorize the comptroller to rebate state taxes collected by the projects during their first

10 years of operation.

Tax Code ch. 351 lists descriptions of the cities that qualify for the program.

DIGEST:

CSHB 4347 would expand the list of municipalities that could pledge state tax revenue from certain hotels and other ancillary facilities for the payment of bonds or obligations issued or entered into for certain projects involving the acquisition, construction, or lease of city-owned convention center facilities. The bill also would alter the requirements for certain municipalities that were allowed to pledge such revenue under current law.

New municipalities. The bill would add descriptions of 17 cities to the list of municipalities that could pledge such revenue for the payment of certain bonds or obligations.

Municipalities that would be added to the list would include those:

- with a population of between 90,000 and 150,000 located in three counties and that contained a branch campus of the University of Houston System (Pearland);
- primarily located in a county with a population of at least 4 million that was connected by a bridge to Kemah (Seabrook);
- with a population of between 20,000 and 25,000 that contained part of Mustang Bayou and was wholly located in a county with a population of less than 500,000 (Alvin);
- with a population of between 70,000 and 85,000 located in two counties, one of which had a population of at least 4 million and the other of which had a population of less than 50,000 (Baytown);
- with a population of at least 10,000 wholly located in a county with a population of at least 4 million that had a city hall less than three miles from a space center operated by a federal agency (Webster);
- that was the county seat of a county through which the Pedernales River flowed and in which the birthplace of a president of the United States was located (Fredericksburg);
- that contained a portion of U.S. Highway 79 and State Highway

130 (Hutto);

- with a population of between 48,000 and 95,000 located in two counties, one of which had a population of between 900,000 and 1.7 million (Cedar Park);
- with a population of less than 25,000 that contained a museum of Western American art (Kerrville);
- with a population of at least 50,000 that was the county seat of a county that contained a portion of the Sam Houston National Forest (Conroe);
- with a population of less than 25,000 that contained a cultural heritage museum and was located in a county that bordered the United Mexican States and the Gulf of Mexico (San Benito);
- that was the county seat of a county that had a population of at least 115,000 that was next to a county with a population of at least 1.8 million and that hosted an annual peach festival (Weatherford);
- that was the county seat of a county that had a population of at least 585,000 that was next to a county with a population of at least 4 million (Richmond);
- with a population of less than 10,000 that contained a component university of The Texas A&M University System and that was located in a county next to a county that bordered Oklahoma (Commerce);
- with a population of less than 6,100 that was located in two counties, each of which had a population of between 600,000 and 2 million, and that hosted an annual Cajun Festival (Celina);
- with a population of at least 13,000 that was located on an international border in a county with a population of less than 400,000 in which was located at least one World Birding Center site (Rio Grande City); and
- with a population of at least 4,000 that was located on an international border and within five miles of a state historic site that served as a visitor center for a state park that contained at least 300,000 acres of land (Presidio).

These municipalities could pledge and receive state tax revenues from qualified hotels or certain ancillary facilities located in or connected to the hotel for the payment of bonds, obligations, and contractual obligations

issued or entered into in connection with qualified projects involving qualified convention center facilities and the qualified hotel. The bill would set out the definitions and requirements for what constituted a qualified project, a qualified hotel, and a qualified convention center facility.

The taxes that could be pledged and received by these municipalities would include state sales and use taxes, state hotel occupancy taxes, special district and county sales and use taxes, county hotel occupancy taxes, and the mixed beverage taxes issued by the comptroller to municipalities or counties. Under certain circumstances, some municipalities also could pledge state tax revenue generated on land owned by a municipality that was within 1,000 feet of qualified hotels or qualified convention center facilities.

Such revenue could be pledged only if qualified hotels that were part of qualified projects would benefit from the pledging of that revenue. Municipalities would be able to pledge revenue for only one qualified project, unless the municipality had a population of 175,000 or more. Municipalities would not be entitled to receive funds from qualified projects unless the municipality had pledged a portion of the tax revenue for the payment of bonds, obligations, or contractual obligations associated with the projects.

A municipality would be entitled to pledge this revenue for 10 years following the date a qualified hotel was open for initial occupancy and would not be entitled to pledge or receive this revenue unless a qualified project was commenced before September 1, 2023. The comptroller would deposit revenue collected by or forwarded to the comptroller that had been pledged by the municipality in a separate suspense account of the qualified project, which would be outside the state treasury. The comptroller would be required to pay this revenue to municipalities at least quarterly.

Changes for existing municipalities. Certain municipalities that currently are allowed to pledge state tax revenue for the purposes set out above would be subject to the requirements of municipalities that were added by this bill. These municipalities would include Corpus Christi,

Nacogdoches, El Paso, Arlington, San Antonio, Grand Prairie, Irving, Amarillo, Tyler, Round Rock, Odessa, Midland, Prosper, Lubbock, Frisco, Cedar Hill, Roanoke, Rowlett, League City, Kemah, Sugar Land, Katy, and Port Aransas. The bill would also provide special rules and requirements for Kemah and Arlington.

Effective date. This bill would take effect September 1, 2019, and would apply to qualified projects for which municipalities first authorized the issuance of bonds or other obligations or executed agreements secured by a pledges of revenue for the project on or after that date.

SUPPORTERS SAY:

CSHB 4347 would create jobs, stimulate economic development, and reform an important state rebate program to improve transparency.

Certain designated cities currently receive a 10-year rebate of certain state taxes collected at hotel projects located near city-owned convention centers. This rebate is used to cover the costs of bonds issued for the construction of the convention center and associated facilities. Six cities so far have taken advantage of the program, and it is anticipated that the state will double the return on its investment in these projects.

This bill would allow 17 more cities to use this successful program. CSHB 4347 would not create any new taxes or change any tax rates but merely would allow more cities to use these tax revenues to meet the demands of tourism in the state, fueling economic growth that may not have otherwise have occurred in the state and increasing tax revenue to the state in the long run.

The bill also would clean up statutory language to make it clear which cities could take advantage of the program.

OPPONENTS SAY:

CSHB 4347 would negatively impact state revenue to fund purely local projects.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $11 million to general revenue related funds through fiscal 2020-21. Additionally, the bill would result in a negative impact of about $62 million through fiscal 2022-23.

SUBJECT: Prohibiting step therapy protocols for patients with stage-four cancer

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Lucio, Oliverson, G. Bonnen, S. Davis, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

WITNESSES: For — Rebecca Birch, Susan G. Komen; Debra Patt, Texas Medical Association; (*Registered, but did not testify*: Denise Rose, AstraZeneca; Dennis Borel and Chris Masey, Coalition of Texans with Disabilities; Patricia Shipton, Texas Healthcare and Bioscience Institute; Bonnie Bruce)

Against — (*Registered, but did not testify*: John McCord, NFIB; Jessica Boston, Texas Association of Business; Jamie Dudensing, Texas Association of Health Plans)

On — (*Registered, but did not testify*: Rachel Bowden, Texas Department of Insurance)

DIGEST: CSHB 1584 would prohibit a health benefit plan that provided coverage for stage-four advanced cancer and associated conditions from requiring that an enrollee fail to successfully respond to a different drug or prove a history of such failure before the plan provided coverage for a prescription drug.

This requirement would apply only to a drug whose use was consistent with best practices for the treatment of stage-four advanced cancer or an associated condition and was supported by peer-reviewed medical literature.

The bill would apply only to certain health plans issued by specified organizations, including:

- a plan issued by health maintenance organization;

- a small employer health plan subject to the Health Insurance Portability and Availability Act;
- a consumer choice of benefits plan;
- a basic coverage plan under the Texas Employees Group Benefits Act;
- a basic plan under the Texas Public School Retired Employees Group Benefits Act;
- a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act;
- a basic coverage plan under the Uniform Insurance Benefits Act for employees of the University of Texas and Texas A&M systems;
- group health coverage made available by a school district;
- a regional or local health care program providing services to certain small employers; and
- a self-funded health plan sponsored by a professional employer organization.

The bill also would apply to the state Medicaid program, including managed care programs, and the state child health plan program. The bill would apply to coverage under a group health plan provided to a resident of this state regardless of whether the group contract was issued or renewed in this state.

The bill would take effect September 1, 2019, and would apply to a health benefit plan issued or renewed on or after January 1, 2020.

SUPPORTERS SAY:

CSHB 1584 would provide more flexibility in the doctor-patient relationship by prohibiting step therapy protocols for patients with stage-four advanced, metastatic cancer. Step therapy protocols require doctors to prescribe certain drugs first before prescribing other forms of medication and can be arduous for both patients and physicians, especially in cases where time is critical. By prohibiting these protocols for specific patients, this bill would improve patients' access to needed treatment and ensure doctors could develop treatment plans that best suited patients with time-sensitive medical conditions.

OPPONENTS

CSHB 1584 would increase health care costs for health plans and

SAY: consumers by prohibiting step therapy protocols for patients with advanced, stage-four cancer. Step therapy protocols help reduce costs for health plans, and prohibiting this practice for certain patients would pass those costs on to other consumers through higher premiums.

SUBJECT: Increasing statute of limitations for abandoning or endangering a child

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association, State FOP; Jessica Anderson, Houston Police Department; Tiana Sanford, Montgomery County District Attorney's Office)

Against — None

BACKGROUND: Code of Criminal Procedure art. 12.01 establishes the statutes of limitations for filing criminal charges. Charges of abandoning or endangering a child must be filed within five years of the commission of the offense.

Concerns have been raised that a five-year statute of limitations on this crime might not give victims adequate time to process the crime and be ready to come forward to seek justice.

DIGEST: HB 442 would increase the statute of limitations for the crime of abandoning or endangering a child from five years to 10 years from the date the crime was committed.

The bill would take effect September 1, 2019, and would not apply to offenses for which the prosecution was barred by the limitation in effect before the bill's effective date.

SUBJECT: Increasing penalties for causing serious injury while passing a school bus

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Landgraf

WITNESSES: For — Sheri Doss, Texas PTA

Against — None

BACKGROUND: Transportation Code sec. 545.066 makes it a misdemeanor punishable by a fine of $500 to $1,250 for a driver to pass a school bus that is stopped to receive or discharge a student. It becomes a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the driver causes serious bodily injury to another and a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the driver has been previously convicted of causing serious bodily injury under the same offense.

Concerns have been raised that the penalties for causing serious bodily injury while illegally passing a school bus do not reflect the severity of the offense.

DIGEST: HB 4070 would make it a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if in the process of illegally passing a school bus that was stopped to receive or discharge a student a driver caused serious bodily injury to another and would remove the state-jail felony provision for subsequent convictions of serious bodily injury. A person who committed an offense under Transportation Code sec. 545.066 that constituted an offense under another section could be prosecuted under either section.

The bill would take effect September 1, 2019.

SUBJECT: Increasing penalties for family violence crimes in presence of a child

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Billy Cordell, Burleson Police Department; Ken Shetter, City of Burleson and One Safe Place; Francine DeLongchamp; (*Registered, but did not testify*: Pete Gallego, Bexar County Criminal District Attorney's Office; TJ Patterson, City of Fort Worth; Jennifer Tharp, Comal County Criminal District Attorney; Frederick Frazier, Dallas Police Association, FOP 716, State FOP; Vincent Giardino, Tarrant County Criminal District Attorney's Office)

Against — (*Registered, but did not testify*: Chris Harris, Just Liberty; Ambrosia Urias, Texas Advocacy Project; Linda Phan, Texas Council on Family Violence; James Grace Jr., The Houston Area Women's Center)

BACKGROUND: Penal Code sec. 22.01 establishes the crime of assault. The crime generally is a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) but is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if committed against a family or household member or within a dating relationship. The offense is a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) in this same situation if the defendant had a previous conviction for assault, criminal homicide, kidnapping, aggravated kidnapping, or indecency with a child and the assault was committed by choking.

Aggravated assault is established in Penal Code sec. 22.02. The offense generally is a second-degree felony but is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) under certain circumstances, including if a deadly weapon was used during the assault and caused serious bodily injury to someone

associated with the defendant by a family, household, or dating relationship.

DIGEST:

CSHB 24 would increase penalties for assault and aggravated assault if committed against a family or household member or within a dating relationship and in the physical presence of another person younger than 18 years old or if the defendant had reason to believe that someone younger than 18 years old was present and could see or hear the offense. Assault would be increased from a class A misdemeanor to a state jail felony, and aggravated assault would be increased from a second-degree felony to a first-degree felony.

The bill would prevail over another act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

The bill would take effect September 1, 2019, and would apply to offenses committed on or after that date.

SUPPORTERS SAY:

CSHB 24 would increase protection and help for children who suffered harm by witnessing domestic violence, recognize their victimization, and more appropriately punish those who inflicted this harm.

The bill would send a clear message that these children deserve special protections. When children are exposed to domestic violence they also become victims, and often the violence is purposefully committed in front of the child. This exposure to domestic violence can harm children in multiple ways, including fostering psychological and emotional problems, harming cognitive functioning, and contributing to long-term developmental issues such as depression and low self-esteem. The exposure also can increase the likelihood of drug and alcohol abuse, self-harm, and becoming domestic abusers.

The bill would help these child victims, who are suffering harm under current law. Identifying these children could help connect them to needed programs and services and could serve as a record of the abuse in future custody or visitation proceedings. Several other states have similar laws, and there is no data pointing to negative outcomes as a result. Prosecutors

would have discretion about using the enhancement and could consider the individual circumstances of a case to protect the interests of a child victim. One Texas city has a similar ordinance and has handled cases in ways so as not to re-traumatize children, such as using adult witnesses and other evidence.

Enhancing the penalty for domestic violence committed in the presence of children would help ensure that these offenders received appropriate punishment for their crime. The multiple victims of these offenses would warrant the increased punishment, which also could serve as a deterrent to violence.

OPPONENTS SAY:

CSHB 24 could harm children who witness domestic violence. There could be no protection for children from retribution from the perpetrators of family violence during or after a prosecution. Having to prove the circumstances for the enhanced penalty could result in children becoming witnesses in court proceedings and being re-traumatized and endangered through that process. An enhanced penalty could chill the cooperation and engagement of victims with law enforcement authorities.

SUBJECT: Revising notice rules for presumption of intent to commit theft of service

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Collier, Zedler, J. González, P. King, Murr, Pacheco

0 nays

3 absent — K. Bell, Hunter, Moody

WITNESSES: For — Jason Hunt, EAN Holdings, LLC (*Registered, but did not testify*: Mark Vane, Rent A Center)

Against — (*Registered, but did not testify*: Mary Mergler, Texas Appleseed)

On — (*Registered, but did not testify*: Vincent Giardino, Tarrant County Criminal District Attorney's Office)

BACKGROUND: Penal Code sec. 31.04 provides that a person commits theft of service if the person performs certain acts with the intent to avoid payment for a service that the actor knows is provided only for compensation. Among other actions, intent to avoid payment is presumed if the actor fails to return property held under a rental agreement within three days after receiving notice demanding return if the property is valued at $2,500 or more.

DIGEST: CSHB 2524 would create a presumption of intent to avoid payment with respect to the offense of theft of service if a person failed to return property held under a rental agreement within two days of receiving a notice demanding return if the property was valued at $10,000 or more.

The bill would allow required notices to be sent by commercial delivery service. It would be presumed that the notice was received not later than two days after the notice was sent if notice was given in writing, sent by registered or certified mail with return receipt requested or by commercial delivery service, and sent to the actor using the actor's mailing address

shown on the rental agreement or service agreement.

The bill would take effect September 1, 2019.

SUBJECT: Expanding eligibility for patients' medical use of low-THC cannabis

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — S. Thompson, Wray, Frank, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

3 absent — Allison, Coleman, Guerra

WITNESSES: For — Charles Beall, Ana-Lab Corp.; Jody Ladd and Jose Ramon, Cannabis Open Carry Walks; LaTonya Whittington, Cannabis Reform of Houston; Karen Reeves, CenTex Community Outreach; Chase Bearden, Coalition of Texans with Disabilities; Mandi Hughes, Daniel Marett, and Janet Rutledge, COCW; Debbie Branch, Amy Fawell, Suzanne Josey, and Deborah Tolany, Mothers Advocating Medical Marijuana for Autism; Luis Nakamoto, Mother's Botanicals; Jeff LeBlanc, Republican Liberty Caucus Of Texas; Ann Lee, Republicans Against Marijuana Prohibition; William Martin, Rice University's Baker Institute for Public Policy; Jaclyn Finkel, Texas NORML; Paul Stempko, Texas Silver-Haired Legislature; David Bass and Romana Harding, Texas Veterans for Medical Marijuana; Jason Vaughn, Texas Young Republicans; and 33 individuals; (*Registered, but did not testify*: Bob Kafka, ADAPT; Tobi Duckworth, Ana-Lab; Jacquie Benestante, Autism Society of Texas; Candis Dyer, Cannabis Open Carry Walks; Dennis Borel and Chris Masey, Coalition of Texans with Disabilities; Eric Espinoza, DFW NORML; Jolene Sanders, Easterseals Texas; Jesse Williams, Educating Texans; Terri Carriker, Bonnie Jensen, Blaire McBurney, Michael Ozmun, Karin Schuetze, Thalia Seggelink, and Allison Rogers, Mothers Advocating Medical Marijuana for Autism; Catherine Cranston, Personal Attendant Coalition of Texas; James Dickey, Republican Party of Texas; Wayne Delanghe, San Antonio Fire Department; Susan Hays, TEAMM; Heather Fazio, Texans for Responsible Marijuana Policy; Jennifer Cambron, Texans For Veterans; Edward Fox, Texas Neurologic Society; Amy Litzinger, Texas Parent to Parent; Stacy Suits, Travis County Constable Pct. 3; Elias Jackson, Vyripharm; Lindsey Fenton, We the Parents Coalition; and 63

individuals)

Against — (*Registered, but did not testify*: Ronnie Morris, Grand Prairie Police Department; Jim Skinner, Sheriffs' Association of Texas; Richard Ramirez, Stafford Police Department; John Chancellor, Texas Police Chiefs Association; Mary Castle, Texas Values; Nicole Hudgens and Jonathan Saenz, Texas Values Action)

On — (*Registered, but did not testify*: Sophia Karimjee, Steve Moninger, and Wayne Mueller, Department of Public Safety)

BACKGROUND:

Health and Safety Code ch. 487 establishes the Texas Compassionate Use Act, which is administered by the Department of Public Safety and allows certain licensed organizations to dispense and patients with qualifying conditions to receive low-THC cannabis.

Occupations Code sec. 169.001 defines "low-THC cannabis" as the plant Cannabis sativa L., and any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains no more than 0.5 percent by weight of tetrahydrocannabinols and at least 10 percent by weight of cannabidiol. It defines "medical use" as the ingestion by a means of administration other than by smoking of a prescribed low-THC amount to a person. Sec. 169.002 authorizes licensed physicians to prescribe low-THC cannabis to patients with intractable epilepsy.

Health and Safety Code ch. 481, subch. G authorizes the Health and Human Services Commission to establish a therapeutic controlled substance research program for examining the supervised use of THC for medical and research purposes. Sec. 481.111(e) and (f) provide exemptions for offenses to certain persons for cultivating, delivering, possessing, or disposing of a raw material used in or a byproduct of low-THC cannabis. Patients who receive a valid prescription from a licensed dispensing organization for low-THC cannabis are exempted from offenses involving possession of marijuana or drug paraphernalia. Employees of dispensing organizations also are exempt.

DIGEST:

CSHB 1365 would expand the number of entities that could dispense and eligible patients who could receive low-THC cannabis for medical use.

The bill would exempt from certain offenses authorized persons who engaged in the medical use of low-THC cannabis and establish the cannabis therapeutic research program. The bill also would amend the definition of low-THC cannabis to remove the requirement that it contain a minimum percentage by weight of cannabidiol.

Compassionate Use Act

Definitions. The bill would define "cannabis research organization" as an organization licensed by the Department of Public Safety (DPS) to conduct medical, scientific, or agricultural research on low-THC cannabis. "Cannabis testing facility" would mean an independent entity licensed by DPS to analyze the content, safety, and potency of low-THC cannabis.

Allowable amounts. Under the bill, the allowable amount of low-THC cannabis would be a 30-day supply of the recommended dosage stated in grams for low-THC cannabis in the form of dried flower and in milligrams of tetrahydrocannabinols contained in oils or other products infused with low-THC cannabis. Oils or other products infused with low-THC cannabis would have to be labeled in accordance with DPS rules to indicate the quantity of each cannabinoid and terpene contained in the oil or product.

Legal protections. The bill would establish protections from legal actions for:

- a patient for whom medical use was prescribed or the patient's parent or caregiver;
- a dispensing organization;
- a cannabis research organization and testing facility; and
- a director, manager, or employee of a dispensing organization, cannabis research organization, or cannabis testing facility.

The above persons would not be subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for conduct involving medical use that was authorized under the bill.

A person engaging in the authorized medical use of low-THC cannabis would not establish grounds for:

- presuming child abuse, neglect, or endangerment;
- denying parental rights;
- seizing or forfeiting property; or
- arresting, prosecuting, or imposing any sentence or penalty under the drug paraphernalia provisions.

The bill would allow DPS to use fees for administering the Compassionate Use Act to establish a fund for testing cannabis, cannabis products, and other substances.

Rules. The DPS director by rule would adopt low-THC labeling requirements and other necessary rules to allow the department to monitor the safety and efficacy of low-THC cannabis and oils or products infused with low-THC cannabis.

Dispensing entities. The bill would require DPS to issue or renew a license to dispense low-THC cannabis for a cannabis research organization and cannabis testing facility if the applicant met certain eligibility requirements. The bill would allow a dispensing organization to operate three additional retail dispensing locations under a single license. If DPS determined that additional locations were necessary to meet patient access needs, a licensee could operate more than four dispensing locations. The bill would allow DPS to set a fee for an application for each additional location.

By March 1, 2020, DPS would begin licensing cannabis research organizations and cannabis testing facilities that met licensure requirements. By September 1, 2020, DPS would have to license at least 12 dispensing organizations that met licensure requirements.

Prescribing physicians

Definitions. The bill would define "debilitating medical condition" as cancer, autism, post-traumatic stress disorder, certain neurological

conditions, Crohn's disease, ulcerative colitis, muscular dystrophy, multiple sclerosis, or any other medical condition considered to be debilitating by the cannabis therapeutic research review board. It also would mean a medical condition or the treatment of a medical condition that produced:

- endocannabinoid deficiency syndrome;
- cachexia or wasting syndrome;
- neuropathy;
- visceral, neuropathic, somatic, or sever intractable pain;
- severe nausea;
- seizures, including those characteristic of epilepsy;
- severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
- tic disorders.

Duties and authority. The bill would allow licensed physicians to prescribe low-THC cannabis to patients with debilitating medical conditions, provided the physician obtained the proper medical knowledge concerning medical use as treatment for the patients' particular condition through instruction courses, continuing medical education, or self-study.

The bill would require a physician to record any adverse event in the patient's medical records and report any serious adverse event to the cannabis therapeutic research review board.

A physician could not be denied any right or privilege or be subject to disciplinary action solely for:

- making a written or oral statement that, in the physician's professional opinion, the potential benefits of cannabis use would likely outweigh the health risks; or
- participating in the cannabis therapeutic research program or programs under the Compassionate Use Act.

Cannabis therapeutic research program. The bill would establish the cannabis therapeutic research review board to administer the cannabis

therapeutic research program under Health and Safety Code ch. 481, subch. G. The governor-appointed board members would include one attorney and 11 licensed medical professionals as specified in the bill. The bill would allow research programs to be conducted with a medical school, licensed hospital, or a general academic teaching institution.

Board duties. The review board would have to encourage multiple research goals for low-THC cannabis, including:

- objective scientific research into its safety and efficacy;
- developing medical guidelines for appropriate administration of low-THC cannabis to assist physicians and patients in evaluating its risks and benefits;
- developing quality control, purity, and labeling standards;
- developing best practices for its safe and efficient cultivation; and
- analysis of genetic and healing properties of different varieties of cannabis.

The bill would require the review board to determine the formulations and dosages, including ratios of cannabinoids, that were medically appropriate for patients with particular debilitating medical conditions. If the review board determined the likely benefit of medical use in the treatment outweighed the likely harm to patients, those conditions or symptoms would qualify as a debilitating medical condition under Occupations Code ch. 169.

The review board could accept donations and provide grants for research into low-THC cannabis use, health outcomes, and scientific public education outreach to educate youth on the risks of using cannabis for nonmedical purposes or without a health care provider's supervision.

Patient participation. The bill would expand the conditions, symptoms, or side effects that could qualify a patient to receive low-THC cannabis through a research program. Each patient in a research program would have to provide informed consent in writing. If the patient lacked the mental or legal capacity to provide informed consent, a parent, guardian, or conservator could provide informed consent on the patient's behalf.

Report. By January 1 of each odd-numbered year, the executive commissioner of the Health and Human Services Commission would publish a report on the medical effectiveness of low-THC cannabis use and any other medical findings.

Other provisions. The bill would make conforming changes regarding the authorized medical use and allowable amount of low-THC cannabis under Health and Safety Code ch. 481 and ch. 487 and Occupations Code ch. 169.

A municipality, county, or other political subdivision could not prohibit the cultivation, production, dispensing, research, testing, or possession of low-THC cannabis, as authorized under the bill.

The bill would exempt a public school student for whom low-THC cannabis was prescribed from suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline solely because the student possessed, used, or was under the influence of the low-THC cannabis.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1365 would help Texans with debilitating medical conditions by expanding access to low-THC cannabis for patients with cancer, Parkinson's disease, autism, epilepsy, multiple sclerosis, and post-traumatic stress disorder, among many others. This would give Texans with these conditions another treatment option if other treatment failed.

The bill would apply only to low-THC cannabis, a form of cannabis that does not produce a euphoric effect, has a low propensity for abuse, and has no street value on the black market. Recent data has shown low-THC cannabis to be effective at easing the suffering of some individuals with debilitating illnesses. Many states have legalized this treatment, but in Texas, low-THC currently may only be prescribed for intractable epilepsy. Texans seeking this treatment for other serious medical conditions

sometimes move to other states in order to obtain low-THC cannabis.

The bill also would help more Texans in urban and rural areas access low-THC cannabis by clarifying that licensed entities could dispense low-THC cannabis at multiple locations. The bill would increase the market for low-THC cannabis, which currently is very limited, by increasing the number of conditions for which this treatment could be prescribed. This would allow dispensing organizations to manufacture low-THC cannabis in larger quantities and help decrease costs for patients.

The bill would establish safeguards for consumers who purchase CBD oil products by requiring these products to be labeled in accordance with Department of Public Safety rules. Labeling requirements would protect consumers from buying CBD oil products that could contain traces of THC.

OPPONENTS SAY:

CSHB 1365 could increase the risk of harming patients by allowing them to be prescribed a treatment that has not yet been approved by the Food and Drug Administration as safe or effective. The side effects of low-THC cannabis for medical conditions are relatively unknown, and patients wishing to use low-THC cannabis should wait for this treatment to be fully tested.

The bill also could create opportunities for individuals who were not prescribed the treatment to use low-THC cannabis, which could be sold on the black market.

SUBJECT: Expanding eligibility for patients' medical use of low-THC cannabis

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Guerra, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Lucio

WITNESSES: For — Tracy Thompson and Jennifer Ziegler, Patients For Stem Cells; Edward Fox, Texas Neurologic Society; Linda Litzinger, Texas Parent to Parent; and 10 individuals; (*Registered, but did not testify*: Bob Kafka, ADAPT; Candis Dyer, Cannabis Open Carry Walks; LaTonya Whittington, Cannabis Reform of Houston; Karen Reeves, CenTex Community Outreach; Chase Bearden and Dennis Borel, Coalition of Texans with Disabilities; Jesse Williams, Educating Texans; John Pitts Jr., Epilepsy Foundation of Texas; Simone Nichols-Segers, National MS Society; Catherine Cranston, Personal Attendant Coalition of Texas; Wayne Delanghe, San Antonio Fire Department Local 624; Susan Hays, TEAMM; Susan Dantzler, Texas Nationalist Movement; Stacy Suits, Travis County Constable Pct. 3; Elias Jackson, Vyripharm; Lindsey Fenton, We the Parents Coalition; and 32 individuals)

Against — (*Registered, but did not testify*: Jose Ramon, Cannabis Open Carry Walk; Jim Skinner, Sheriffs' Association of Texas; Richard Ramirez, Stafford Police Department; John Chancellor, Texas Police Chiefs Association; Daulton O'Neill; Christy Zartler)

On — Jody Ladd, Cannabis Open Carry Walks; Terri Carriker, Blaire McBurney, and Thalia Seggelink, Mothers Advocating Medical Marijuana for Autism (MAMMA); Luis Nakamoto, Mother's Botanicals; Lora Taylor, Texas Council for Developmental Disabilities; David Bass, Texas Veterans for Medical Marijuana; Adrienne Askew; Nathaniel Czerwinski; Piper Lindeen; Lance Seggelink; (*Registered, but did not testify*: Mandi Hughes, COCW; Steve Moninger and Wayne Mueller,

Texas Department of Public Safety; Debbie Branch, Amy Fawell, Bonnie Jensen, Michael Ozmun, Allison Rogers, Karin Schuetze, and Deborah Tolany, Mothers Advocating Medical Marijuana for Autism; Jaclyn Finkel, Texas NORML; Kelly Myers; Erin Robinson; Tony Sieli)

BACKGROUND:

Health and Safety Code ch. 487 establishes the Texas Compassionate Use Act, which is administered by the Department of Public Safety and allows certain licensed organizations to dispense low-THC cannabis.

Occupations Code sec. 169.001 defines low-THC cannabis as the plant Cannabis sativa L., and any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains no more than 0.5 percent by weight of tetrahydrocannabinols (THC) and at least 10 percent by weight of cannabidiol. Sec. 169.002 authorizes certain licensed physicians to prescribe low-THC cannabis to patients with intractable epilepsy.

Health and Safety Code ch. 481, subch. G authorizes the Health and Human Services Commission to establish a controlled substance therapeutic research program for examining the supervised use of THC for medical and research purposes.

DIGEST:

CSHB 3703 would expand patient eligibility for low-THC cannabis prescriptions and establish a research program. It also would amend the definition of low-THC cannabis to remove the requirement it contain a minimum percentage by weight of cannabidiol.

Prescriptions. The bill would allow licensed physicians to prescribe low-THC cannabis to patients with epilepsy, multiple sclerosis, or spasticity if the physician was licensed, dedicated a significant portion of clinical practice to the evaluation and treatment of a patient's medical condition, and met certain other requirements.

Research program. The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) by rule to establish a low-THC cannabis research program to be conducted by one or more health-related institutions. In the adopted rules, the executive commissioner could provide:

- procedures for a health-related institution to apply to the commission for a permit to conduct low-THC cannabis research under the program;
- criteria for granting a permit;
- any applicable fees for a permit to conduct low-THC cannabis research;
- limitations on which medical conditions could be researched under the program;
- restrictions about facilities where the research could occur; and
- any other conditions necessary to comply with federal law.

The executive commissioner would assist a health-related institution seeking to conduct research under this program to make all necessary applications to appropriate federal agencies to establish the program in compliance with federal law.

HHSC would not have to establish the research program if a registration or license required by federal law to operate the program could not be obtained.

The bill would repeal the controlled substance therapeutic research program established under Health and Safety Code ch. 481, subch. G.

Dispensing. The bill would allow a licensed dispensing organization to operate more than one dispensing location under one license if the Department of Public Safety (DPS) determined that more than one location was necessary to meet patient access needs.

A dispensing organization would have to provide a suitable testing sample of low-THC cannabis to DPS upon request.

Other provisions. The bill would exempt a public school student for whom low-THC cannabis was prescribed from suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline solely because the student possessed, used, or was under the influence of the low-THC cannabis.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 3703 would help Texans with severe medical conditions by expanding access to low-THC cannabis for patients with multiple sclerosis, spasticity, and all forms of epilepsy. This would give Texans with these conditions another treatment option if other treatment failed.

The bill would apply only to low-THC cannabis, a form of cannabis that does not produce a euphoric effect, has a low propensity for abuse, and has no street value on the black market. Recent data has shown low-THC cannabis to be effective at easing the suffering of some individuals with debilitating illness. Many states have legalized this treatment, but in Texas low-THC currently may only be prescribed for intractable epilepsy. Texans seeking this treatment for other serious medical conditions sometimes move to other states in order to obtain low-THC cannabis.

The bill also would help more Texans in urban and rural areas access low-THC cannabis by clarifying that licensed entities could dispense low-THC cannabis at multiple locations. The bill would increase the market for low-THC cannabis, which currently is very limited, by increasing the number of conditions for which this treatment could be prescribed. This would allow dispensing organizations to manufacture low-THC cannabis in larger quantities and help decrease costs for patients.

OPPONENTS SAY:

CSHB 3703 could increase the risk of harming patients by allowing them to be prescribed a treatment that has not yet been approved by the Food and Drug Administration as safe or effective. The side effects of low-THC cannabis for medical conditions are relatively unknown, and patients wishing to use low-THC cannabis should wait for this treatment to be fully tested. The bill also could create opportunities for individuals who were not prescribed the treatment to use low-THC cannabis, which also could be sold on the black market.

OTHER OPPONENTS SAY:

CSHB 3703 should expand the list of qualifying conditions for the medical use of low-THC cannabis to include autism and other conditions.

SUBJECT: Clarifying the standard of proof in lawsuits involving emergency services

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Leach, Farrar, Julie Johnson, Krause, Neave, White

0 nays

3 absent — Y. Davis, Meyer, Smith

WITNESSES: For — Jay Harvey, Texas Trial Lawyers Association; Craig Eiland; (*Registered, but did not testify*: Mandi Hughes, COCW; Will Francis, National Association of Social Workers-Texas Chapter; Ware Wendell, Texas Watch; Susan Gezana)

Against — Raymond Hampton, American College of Obstetricians and Gynecologists, Texas Medical Association; Brian Jackson, Texas Alliance for Patient Access; Heather Owen, Texas College of Emergency Physicians; Sam Roberts, US Acute Care Solutions, LLC; (*Registered, but did not testify*: Gregg Knaupe, Ascension Seton; Timothy Ottinger, Catholic Health Initiatives Texas Division; Bill Kelly, City of Houston Mayor's Office; James Mathis, Houston Methodist Hospital; Lee Loftis, Independent Insurance Agents of Texas; John W. Fainter Jr and George Christian, Texas Civil Justice League; Cesar Lopez, Texas Hospital Association; Bobby Hillert, Texas Orthopaedic Association; Jill Sutton, Texas Osteopathic Medical Association; Bonnie Bruce, Texas Society of Anesthesiologists; Brian Dittmar, Texas Medical Liability Trust)

On — Robert Duncan

BACKGROUND: Civil Practice and Remedies Code sec. 74.153 requires a claimant in a suit involving certain health care liability claims against physicians or health care providers arising from emergency medical care to prove by a preponderance of the evidence that the physician or provider, with willful or wanton negligence, deviated from the care and skill reasonably expected of an ordinarily prudent physician or provider in the same or similar circumstances.

DIGEST:

HB 2362 would make Civil Practice and Remedies Code sec. 74.153(a), which addresses the standard of proof in cases involving emergency medical care, inapplicable in health care liability claims if the care or treatment that formed the basis of the suit was:

- provided when a patient arrived at a health care institution in stable condition or capable of receiving care or treatment as a nonemergency patient;
- provided after the patient was stabilized or capable of receiving care or treatment as a nonemergency patient;
- provided in an obstetrical unit if the patient arrived at a hospital for care or treatment for a non-obstetric emergency;
- unrelated to the original medical emergency for which the patient initially sought care or treatment; or
- related to an emergency caused wholly or partly by the negligence of any defendant.

The bill would take effect September 1, 2019, and would apply to a cause of action that accrued on or after that date.

SUPPORTERS SAY:

HB 2362 would restore the legislative intent behind Civil Practice and Remedies Code sec. 74.153 by making clear that the heightened standard of proving willful and wanton negligence applied only to emergencies that existed when a patient was brought to the emergency room and did not apply to unrelated emergencies that came about afterwards or to emergencies caused by physician or health care provider. As interpreted by the Texas Supreme Court, the current statute could allow physicians and providers to receive the benefit of this heightened standard when they caused the emergency and make it more difficult for patients to recover compensation for physicians' and providers' negligence.

The bill would not limit the number of emergency rooms or physicians willing to handle emergencies but would make clear that the heightened standard did not apply in the absence of an emergency situation.

OPPONENTS SAY:

HB 2632 could increase litigation on issues regarding whether a patient was stable or whether physician or health care provider contributed to

causing an emergency, which could lead physicians and providers to be reluctant to handle emergencies due to fears of increased exposure.

NOTES:

The bill author plans to offer a floor amendment that would change the circumstances in which Civil Practice and Remedies Code sec. 74.153(a), including the requirement to prove willful and wanton negligence, did not apply. The provision would not apply to:

- medical care or treatment provided after the patient was stabilized and receiving medical care or treatment as a nonemergency patient or that was unrelated to the medical emergency; or
- a physician or health care provider whose negligent act or omission proximately caused a stable patient to require emergency medical care.

SUBJECT: Civil immunity for charitable organizations disclosing sexual misconduct

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Ben Wright, Southern Baptists of Texas Convention; Laura Colangelo, Texas Private Schools Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; (*Registered, but did not testify*: Gus Reyes, Christian Life Commission of Texas Baptists; Ann Hettinger, Concerned Women for America; Cindy Asmussen, Southern Baptists of Texas Convention; Chris Kaiser, Texas Association Against Sexual Assault; Russell Allen, Woodlawn Baptist Church; Orlando Guerrero)

Against — Douglas Brown; (*Registered, but did not testify*: Idona Griffith)

DIGEST: CSHB 4345 would make charitable organizations and their employees or volunteers immune from civil liability for good-faith disclosure to an individual's current or prospective employer information reasonably believed to be true about allegations that the individual, while an employee or volunteer of the charitable organization:

- engaged in sexual misconduct;
- sexually abused another individual;
- sexually harassed another individual; or
- otherwise committed a sexual offense or an offense of public indecency.

Individuals would not be immune from civil liability if they disclosed information about their own sexual misconduct or acted in bad faith or with malicious purpose in making a disclosure.

The bill would take immediate effect if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2019, and would not apply to a cause of action that accrued before the bill's effective date.

SUPPORTERS SAY:

CSHB 4345 would empower charitable organizations to take action against individuals with a history of sexual misconduct by granting these organizations immunity from civil liability for disclosing this history to other employers. Many of these organizations are worried about the civil liability that could result if they disclose this information. The bill would end the silence that can allow predators to move between charitable organizations and would help prevent them from harming others.

Guaranteeing civil immunity for good-faith reporting of sexual misconduct would ensure that charitable organizations were not punished for coming forward with information so that others were not abused again. These organizations already have an obligation to report the sexual misconduct of minors to law enforcement.

OPPONENTS SAY:

CSHB 4345 would not go far enough in protecting people from sexual misconduct. The bill should require charitable organizations to report all instances of sexual misconduct to law enforcement in order to receive immunity from civil liability.

SUBJECT: Incorporating human trafficking training into law enforcement curricula

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — (*Registered, but did not testify*: Chas Moore, Austin Justice Coalition; Jason Sabo, Children at Risk; TJ Patterson, City of Fort Worth; Chris Masey, Coalition of Texans with Disabilities; Chris Jones, Combined Law Enforcement Associations of Texas; Ender Reed, Harris County Commissioners Court; Julia Egler, National Alliance on Mental Illness-Texas; James Dickey, Republican Party of Texas; Jimmy Rodriguez, San Antonio Police Officers Association; Chris Kaiser, Texas Association Against Sexual Assault; Kathryn Freeman, Texas Baptists Christian Life Commission; Bryan Mares, Texas CASA; Michael Barba, Texas Catholic Conference of Bishops; Amelia Casas and Reginald Smith, Texas Criminal Justice Coalition; Jennifer Erschabek, Texas Inmate Families Association; Lonzo Kerr, Texas NAACP; and six individuals)

Against — (*Registered, but did not testify*: Christopher Lutton, San Antonio Police Department)

On — (*Registered, but did not testify*: Kenny Merchant, Texas Commission on Law Enforcement)

BACKGROUND: Occupations Code sec. 1701.258(a) requires peace officers licensed by the Texas Commission on Law Enforcement on or after January 1, 2011, to complete a one-time basic education and training program on human trafficking. Some have suggested the state do more to ensure that training provided to officers includes instruction on human trafficking.

DIGEST: HB 292 would require the Texas Commission on Law Enforcement to incorporate completion of the basic education and training program on the

trafficking of persons into the minimum curriculum requirements for law enforcement officers. An officer would have to complete the program by the second anniversary of the date the officer was licensed unless the education and training program was completed as part of the basic training course.

The commission would have to adopt rules necessary to implement the provisions of the bill by December 1, 2019.

The bill would take effect September 1, 2019.

SUBJECT: Specifying city voting and election rights for certain annexed residents

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Craddick, Muñoz, C. Bell, Biedermann, Minjarez, Stickland

0 nays

3 absent — Canales, Leman, Thierry

WITNESSES: For — None

Against — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office)

BACKGROUND: Local Government Code sec. 43.0751 requires a city, upon request of a conservation and reclamation district included in the city's annexation plan, to negotiate and enter into a written strategic partnership agreement with the district. A strategic partnership agreement could have certain provisions, including limited-purpose annexation of the district on terms acceptable to the city and district.

Sec. 43.130 allows the qualified voters of an area annexed for limited purposes to vote in certain city elections, including the election or recall of members of the governing body, the controller, and the amendment of the city charter. The voters may not vote in a bond election and are not eligible to be a candidate for or elected to a city office.

Some have suggested clarifying current law regarding voting rights and eligibility for office of certain districts annexed under a strategic partnership agreement.

DIGEST: HB 802 would allow the qualified voters of a conservation and reclamation district in which any part was annexed for limited purposes under a strategic partnership agreement to vote in city elections, as provided under Local Government Code sec. 43.130.

If the district included an area located in more than one city, a voter who was a resident of a city not under a strategic partnership agreement could not vote in the elections of the city under an agreement.

A resident of an annexed district would not be eligible to be a candidate for or elected to a city office.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Allowing Montgomery County to create a county ethics commission

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — Bohac, Anderson, Cole, Dominguez, Huberty, Rosenthal

2 nays — Biedermann, Stickland

1 absent — Coleman

WITNESSES: For — B.D. Griffin, Montgomery County Attorney Office

Against — None

BACKGROUND: Local Government Code ch. 161 governs county ethics commissions in counties that have a population of 800,000 or more, are located on the international border, and that before September 1, 2009, had an appointed county ethics board. Sec. 161.051 allows the commissioners court of such a county to establish a county ethics commission.

DIGEST: CSHB 1495 would apply Local Government Code ch. 161 to counties that had a population of 435,000 or more, were adjacent to a county with a population of 3.3 million or more, and contained a portion of the San Jacinto River (Montgomery County). The bill would be known as the J D Lambright Local Government Ethics Reform Act.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY: CSHB 1495 would allow Montgomery County to establish a county ethics commission, which would help provide local accountability and could enforce existing codes of ethics.

Concerns expressed in recent years by some citizens about the need to prevent instances of unethical political behavior led to the adoption of a countywide official code of ethics in 2017. However, this code lacks

needed enforcement provisions that the statutory authority under CSHB 1495 could provide.

While the Texas Ethics Commission provides broad oversight over candidates and office holders in the state, a local county ethics commission would provide an avenue for complaints to be made to local appointees familiar with the officials and any possible conflicts of interest.

OPPONENTS SAY:

CSHB 1495 would allow Montgomery County to create an unnecessary commission. The Texas Ethics Commission oversees political candidates and officeholders in the state, making a county ethics commission redundant.

SUBJECT: Requiring caseworkers to meet with foster children every month

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Frank, Hinojosa, Clardy, Meza, Miller, Noble, Rose

0 nays

2 absent — Deshotel, Klick

WITNESSES: For — Will Francis, National Association of Social Workers-Texas Chapter; Bryan Mares, Texas CASA; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Lauren Spreen, Texas Academy of Family Physicians; Amy Bresnen, Texas Family Law Foundation; Lauren Rose, Texas Network of Youth Services; Jennifer Lucy, Texprotects; Arthur Simon)

Against — None

On — Liz Kromrei, Department of Family and Protective Services; (*Registered, but did not testify*: Audrey Carmical, Department of Family and Protective Services)

DIGEST: HB 3614 would require the Department of Family and Protective Services (DFPS) to conduct an in-person meeting at least once per month with each child in the department's conservatorship and to document the results of the meeting in the child's case file. DPFS would submit a report to the Legislature on those visits.

Monthly meetings. Each monthly meeting would have to include:

- a complete assessment of the child's safety, including an assessment of the child's placement;
- if the child was verbal, an interview with the child conducted individually, separately, and privately from the caregiver and other children;
- a discussion of the forms of discipline used in the placement; and

- a review of the child's medical, mental health, dental, and educational progress and needs.

If a monthly meeting was missed, DFPS would have to record the reason for the missed meeting in the child's case file. If the monthly meeting was not conducted by the primary caseworker assigned to a child protective services (CPS) case, the caseworker would have to communicate with the child at least once per month by telephone, video conference, or another developmentally appropriate form of communication.

DFPS would have to ensure that each CPS caseworker received training on visitation requirements and would have to update its automated case tracking and information management system to allow caseworkers to record each meeting with a child.

Report. By the 30th day following the last day of each calendar quarter, DFPS would have to submit a report to the lieutenant governor, House speaker, and the chairs of the relevant legislative committees. The report would have to include:

- the total number of caseworker visits with children in DPFS conservatorship that caseworkers were required to make each month of the calendar quarter;
- the total number of caseworker visits with children in DFPS conservatorship that caseworkers actually made each month of the calendar quarter, including face-to-face visits and virtual visits; and
- the number of visits caseworkers made each month as a percentage of the number they were required to make.

The bill would take effect September 1, 2019.

SUBJECT: Amending rules of and appeals to a city board of adjustment

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Craddick, Muñoz, C. Bell, Biedermann, Leman, Minjarez, Stickland

0 nays

2 absent — Canales, Thierry

WITNESSES: For — Walter Moreau, Foundation Communities; Dianne Bangle and Geoffrey Tahuahua, Real Estate Council of Austin; (*Registered, but did not testify*: Phil Thoden, Austin AGC; TJ Patterson, City of Fort Worth; David Glenn, Home Builders Association of Greater Austin; Zeeshan Malik, Metcalfe Wolff; Chelsy Hutchison, Real Estate Council of San Antonio; Kyle Jackson, Texas Apartment Association; Scott Norman, Texas Association of Builders; Daniel Gonzalez and Julia Parenteau, Texas Realtors; Dana Harris, The Greater Austin Chamber of Commerce; David Cain, The Real Estate Council of Dallas; Roger Borgelt; Chet Morrison; Patrick Rose)

Against — William Burkhardt; Fred Lewis; (*Registered, but did not testify*: Brie Franco, City of Austin)

BACKGROUND: Local Government Code sec. 211.008 allows the governing body of a city to appoint a board of adjustment, which must adopt rules in accordance with any adopted zoning ordinance.

Under sec. 211.009, the board may hear and decide an appeal that alleges error in a decision made by an administrative official in the enforcement of zoning regulations. A vote of 75 percent of the board is required to reverse a zoning decision.

Sec. 211.010 allows an aggrieved person or an affected officer, department, board, or bureau of the city to appeal a decision to the board. The appellant must file the appeal and the board must make a decision on

the appeal within a reasonable time, as determined by board rules.

DIGEST:

CSHB 2497 would require a board of adjustment to obtain approval from a municipality's governing body when adopting rules.

The bill also would specify that a person could not appeal a decision made by an administrative official that was related to a specific application, address, or project, unless that person:

- filed the application that was the subject of the decision;
- was the owner or representative of the owner of the property that was the subject of the decision;
- was aggrieved by the decision and was the owner of real property within 200 feet of the property that was the subject of the decision; or
- was an officer, department, board, or bureau of the municipality affected by the decision.

The bill would specify that an appeal had to be filed no more than 20 days after the decision was made. The board would decide the appeal at the next meeting for which notice could be provided following the hearing and not later than 60 days after the appeal was filed.

The bill would take effect September 1, 2019, and would apply only to rules adopted by a board of adjustment or a decisions made by an administrative official on or after that date.

SUPPORTERS SAY:

CSHB 2497 would help clarify the process of appealing a land development decision to a board of adjustment. Cities have the option to establish boards of adjustment to lighten the administrative burden for appeals regarding zoning regulations, but currently the process is vague and can interrupt development projects.

The bill would require that a city council or other relevant governing body review and approve all rules adopted by a board, ensuring that those rules did not conflict with city code. The bill also would split administrative decisions into two categories: decisions related to a specific project and non-project decisions. This would clarify who qualified as an "aggrieved

party" in an appeal. Currently, any person can bring an appeal on any project, which can lead to projects being unnecessarily slowed or halted and raises project costs.

The bill also would create a more specific timeline for both filing and deciding an appeal, rather than leaving the timeline open-ended. This would prevent appeals from being filed after construction on a project had already started and would ensure a timely appeal process, since the board would have to make a decision on the appeal within 60 days or at the next board meeting, whichever came first.

OPPONENTS SAY:

CSHB 2497 would needlessly remove the authority of a board of adjustment and instead apply it to a city or other municipality. Boards of adjustment have acted properly to uphold property rights, and this bill would be unnecessary and burdensome.

Boards of adjustment work as a check on the power of local government bureaucrats by allowing aggrieved property owners to challenge a land development decision. By requiring city approval for board rules, the bill effectively would remove the board's authority. Further, the 20 day deadline on applications for appeals could undercut property owner's rights. The bill would not require the city to first notify landowners of a decision, meaning that they could be unaware that 20 days had passed and miss their opportunity to file for appeal.

SUBJECT: Creating a criminal offense for mail theft and related identity theft

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Johnny Siemens, Castle Hills Police Department; Shad Prichard, Hollywood Park Police Department; Robert Sholund, San Antonio Police Department; Homer Hernandez, Texas State Association of Letter Carriers; (*Registered, but did not testify*: Pete Gallego, Bexar County Criminal District Attorney's Office; Chris Jones, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association, FOP716 State FOP; David Sinclair, Game Warden Peace Officers Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Jimmy Rodriguez, San Antonio Police Officers Association; John Chancellor, Texas Police Chiefs Association; Noel Johnson, Texas Municipal Police Association)

Against — (*Registered, but did not testify*: Chris Harris, Just Liberty)

On — Marc Levin, Texas Public Policy Foundation

DIGEST: CSHB 37 would make it a criminal offense to appropriate an individual's mail without the effective consent of the addressee and with the intent to deprive the addressee of the mail. The bill would define "mail" as a letter, post card, package, bag, or other sealed article that was delivered by a common carrier or a delivery service and that had not yet been received by the addressee.

The offense of mail theft would be a:

- class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the mail was appropriated from fewer than 10 addressees;

- state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the mail was appropriated from at least 10 but fewer than 30 addressees; and
- third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the mail was appropriated from 30 or more addressees.

If it was shown on the trial for an offense under the bill that the appropriated mail contained identifying information and that the actor committed the offense with the intent to facilitate an offense of fraudulent use or possession of identifying information, the offense would be a:

- state-jail felony if the mail was appropriated from fewer than 10 addressees;
- third-degree felony if the mail was appropriated from at least 10 but fewer than 20 addressees;
- second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the mail was appropriated from at least 20 but fewer than 50 addressees; and
- first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the mail was appropriated from 50 or more addressees.

The offense would be increased to the next higher category of offense if it was shown during trial that at the time of the offense the actor knew or had reason to believe the addressee of the appropriated mail was a disabled or elderly individual.

A person who committed an offense under the provisions of the bill that also constituted an offense under another law could be prosecuted under either or both laws.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 37 would help protect Texans from mail and identity theft and would empower local law enforcement to prosecute mail thieves by codifying the criminal offense of mail theft at the state level. Currently,

due to the lack of state law on mail theft, law enforcement officers can only forward mail theft incidents to federal officers. This can allow some professional mail thieves to escape prosecution due to the ambiguity of federal statute and the high standard for federal prosecution. Establishing an offense for mail theft at the state level would ensure that local law enforcement could prosecute these cases locally.

Under the bill, mail theft and identity theft committed by appropriating mail would be addressed differently. Identity theft is a much more serious offense and warrants greater penalties, which the bill provides. The bill would also protect vulnerable populations by providing for an enhancement of the penalty for mail theft when committed against elderly individuals and individuals with mental or physical disabilities.

The bill would not provide for overly harsh penalties because law enforcement is primarily concerned with professional mail thieves, not petty offenders. The bill also would ensure that mail theft offenses were prosecuted at an appropriate level by distinguishing between mail theft and the more serious offense of identity theft.

OPPONENTS SAY:

CSHB 37 could over-criminalize mail theft by applying inappropriately harsh penalties on certain offenders. Although mail theft should be criminalized under state law, the bill could apply disproportionate penalties on certain offenders, including those who took an individual's mail without intent to cause harm or as part of a prank.

NOTES:

According to the Legislative Budget Board, the fiscal impact of the bill could not yet be determined due to the lack of information on the number of specific cases that would fall under the bill's provisions.

SUBJECT: Creating a statute of limitations for suits arising from appraisals

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Smith, White

1 nay — Neave

WITNESSES: For — Greg Stephens and Eric Woomer, Foundation Appraisers Coalition of Texas; (*Registered, but did not testify*: Lee Parsley, Texans for Lawsuit Reform)

Against — (*Registered, but did not testify*: Will Adams, Texas Trial Lawyers Association)

DIGEST: CSHB 1116 would require a person filing suit for damages or other relief arising from an appraisal or appraisal review conducted by a real estate appraiser or appraisal firm to do so by the earlier of:

- two years after the day the person knew or should have known the facts on which the action was based; or
- five years after the day the appraisal or appraisal review was completed.

This limitations period would not apply to suits based on fraud or breach of contract.

The bill would take effect September 1, 2019, and would apply only to a cause of action that accrued on or after that date.

SUPPORTERS SAY: CSHB 1116 would provide more certainty for appraisers by creating a statute of limitations for suits based on an appraisal. The absence of a statute of limitations for these suits has resulted in appraisers being sued sometimes decades after an appraisal was conducted, at which point appraisers often no longer have the documentation to defend themselves. While the majority of these suits are dismissed, they clog the judicial

system, and the threat of being sued creates a record-retention burden on appraisers. This bill would help solve these problems by requiring a person to bring these suits within five years of the appraisal.

The 10-year statute of limitations applicable to activities associated with construction would be inappropriate for appraisals because appraisals could lead to the discovery of defects years after a structure was built, and appraisals typically are reviewed by lenders to ensure that there are no errors or omissions.

OPPONENTS SAY:

CSHB 1116 would create a statute of limitations that was inconsistent with the 10-year statute of limitations that applied to activities associated with the construction of real property. This limitation also should apply to appraisals.

SUBJECT: Removing school quality from affordable housing tax credit criteria

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Button, Shaheen, J. González, Goodwin, Middleton, Morales, Patterson, Swanson

0 nays

1 absent — E. Johnson

WITNESSES: For — Debra Guerrero and Janine Sisak, Texas Affiliation of Affordable Housing Providers; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Lisa Stephens and Michael Warner, Texas Affiliation of Affordable Housing Providers; Billy Phenix, Texas Association of Builders; Jeanne Talerico, TALHFA; Barry Kahn; Lora Myrick)

Against — Walter Moreau, Foundation Communities; Charlie Duncan, Texas Housers; (*Registered, but did not testify*: Demetria McCain, Inclusive Communities Project)

On — Marni Holloway, Texas Department of Housing and Community Affairs

BACKGROUND: Government Code sec. 2306.6702(10) defines a "qualified allocation plan" as a plan adopted by the governing board of the Department of Housing and Community Affairs that provides the threshold, scoring, and underwriting criteria for assessing applications to the low-income housing tax credit program. Sec. 2306.67022 requires the board to adopt a qualified allocation plan at least biennially and allows it to adopt one annually.

Under sec. 2306.6710(a), the department may include educational quality as part of the threshold criteria required by a qualified action plan but is prohibited from including it as a scoring factor. This subsection is effective until September 1, 2019.

DIGEST:

CSHB 1215 would allow the Department of Housing and Community Affairs to require that a proposed development satisfy certain criteria related to educational quality as part of the threshold criteria under a qualified allocation plan. The department could not adopt a qualified allocation plan that used a scoring system that awarded points to an application based on criteria related to educational quality.

The bill would take effect September 1, 2019, and would apply only to applications submitted to the department for the application cycle based on the 2020 qualified allocation plan or a subsequent plan.

SUPPORTERS SAY:

CSHB 1215 would solidify standards set in the 2017 legislative session to increase the construction of affordable housing in Texas by expanding the areas in which developers can qualify for certain tax credits.

In the state's growing urban areas, the supply of affordable housing has not kept up with demand. Because low-performing schools are often concentrated in cities, tax credits that include educational quality in their application scoring criteria have been harder to obtain in certain urban areas. This has incentivized the construction of affordable housing in suburban and exurban areas, which are often distant from public transportation and other necessary amenities.

The 85th Legislature in 2017 enacted HB 3574 by Collier, which allowed educational quality to remain part of the threshold criteria in the qualified allocation plan for low-income housing tax credits but no longer allowed it to be used as a scoring item. The act contained an expiration provision so that this approach could be adopted for two years and then evaluated. This trial has successfully brought in more applications for low-income housing tax credits from areas that previously would not have qualified, which will help bring more affordable housing to the urban areas that need it most. CSHB 1215 would make the elimination of school quality as a scoring item for low-income housing tax credit applications permanent, further increasing access to affordable housing.

OPPONENTS SAY:

CSHB 1215 would decrease low-income families' access to high quality education. There is no reason to believe that those who need affordable housing have different priorities than other families who prioritize their

children’s education above many other considerations. Texas developers should be building low-income housing near good schools in order to provide opportunities for children of low-income families, and CSHB 1215 would make that more difficult.

SUBJECT: Increasing the number of school marshals that could serve in a school

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Allen, Allison, Ashby, K. Bell, Dutton, K. King, Meyer, Sanford, VanDeaver

3 nays — Bernal, M. González, Talarico

WITNESSES: For — CJ Grisham, Open Carry Texas; Alexie Swirsky (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Rachel Malone, Gun Owners of America; Byron Schirmbeck, Texas Campaign For Liberty; Mia McCord, Texas Conservative Coalition; Laura Colangelo, Texas Private Schools Association; and seven individuals)

Against — Shandelle Girdley, Moms Demand Action for Gun Sense in America; Michael Clarke, Students Demand Action; Gyl Switzer, Texas Gun Sense (*Registered, but did not testify*: Jo DePrang, Children's Defense Fund-Texas; Mary Cullinane, League of Women Voters of Texas; Vicki Altounian, Molly Bursey, Robin Carroll, Rebecca Defelice, Karen Gentry, Nicole Golden, Melanie Greene, Christine Hinkle, Melissa Holmes, Jenny Johnson, Susan Kelly, Heather Kennedy, Emma Mancha-Sumners, Susan Pintchovski, Sarah Poustovoi, Jennifer Price, Hilary Whitfield, and Jennifer Zoghby, Moms Demand Action for Gun Sense in America; and 20 individuals)

On — (*Registered, but did not testify*: Michael Antu, Texas Commission on Law Enforcement; Megan Aghazadian and Von Byer, Texas Education Agency)

BACKGROUND: Education Code sec. 37.0811 and 37.0813 authorize the board of trustees of a school district or the governing body of an open-enrollment charter school to appoint up to either one school marshal per 200 students in average daily attendance per campus or, for each campus, one school marshal per building of the campus at which students regularly receive classroom instruction, whichever is greater.

Sec. 37.0813 authorizes the governing body of a private school to appoint up to the greater of one school marshal per 200 students enrolled in the school or one school marshal per building of the school at which students regularly receive classroom instruction.

DIGEST:

HB 1387 would increase the number of school marshals a school district or open-enrollment charter school could appoint to one marshal per 100 students in average daily attendance, or for a private school, one marshal per 100 students enrolled.

The bill would apply beginning with the 2019-2020 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

By increasing the number of school marshals a school campus could appoint, HB 1387 would allow for more comprehensive campus protection and provide schools with another option for addressing the threat of potential school shooters. An increased presence of school marshals could dissuade potential shooters from attacking a campus and provide a strategy for rapidly responding if a shooter were to come onto campus.

The bill would not change the purpose or role of a marshal, which is strictly to prevent the act of murder or serious bodily injury on school premises, and would not change the rigorous requirements to become a school marshal.

HB 1387 would not require all schools to appoint or increase the number of school marshals. It simply would provide an enhanced option to prevent school shootings for those schools that felt the marshal program was a good fit for their campuses. While some have expressed concerns that this bill could inadvertently affect certain populations that are disproportionately disciplined in schools, there is no data to suggest that the presence of a school marshal has negatively affected those students.

OPPONENTS

HB 1387 would further promote a school safety strategy that is not

SAY: evidence-based and could negatively and disproportionately impact classroom culture, especially for certain student populations.

There is no evidence supporting the idea that the school marshal program increases safety. The bill would promote a fear-based response that has not been proven to effectively address a potential active shooter scenario. An increase in armed individuals who were not law enforcement officers could increase the risk of someone being harmed. Other evidence-based strategies could more effectively address or prevent a potential active shooter problem, including hiring more school counselors, hardening school campuses, and increasing mental health programs for students.

The bill could have adverse effects on classroom culture and student learning. Students could become easily distracted by the possibility of their teacher being armed, which would detract their attention from learning. Students of color and students with disabilities are disproportionately disciplined across grade levels, and an increased number of marshals would not contribute to a positive learning environment for them.

SUBJECT: Changing late claim payment penalties for HMOs and PPOs

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Lucio, Oliverson, G. Bonnen, S. Davis, Julie Johnson, C. Turner, Vo

2 nays — Lambert, Paul

WITNESSES: For — Rhonda Sandel, Gryphon Healthcare; Steve Bresnen and Jason Ray, Texas Association of Freestanding Emergency Centers; (*Registered, but did not testify*: Jeffery Addicks, Hospitality Health ER; James Mathis, Texas Ambulance Association; Jan Friese, Texas Counseling Association; Sandy Dunn; Olubusayo Obayan; Ninza Sanchez;)

Against — Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Jessica Boston, Texas Association of Business)

On — Jamie Walker, Texas Department of Insurance

BACKGROUND: Insurance Code sec. 843.351 requires health maintenance organizations (HMOs) to promptly pay an out-of-network physician or provider for emergency care provided to an HMO enrollee. Sec. 843.342 establishes that if an HMO fails to pay a submitted claim before the payment deadline, the HMO must pay the provider the contracted rate owed on the claim plus a penalty.

Sec. 1301.069 requires a preferred provider benefit plan to promptly pay an out-of-network physician or provider for emergency care provided to a person insured under the plan. Sec. 1301.137 establishes that if an insurer fails to pay a submitted claim before the payment deadline, the insurer must pay the preferred provider the contracted rate owed on the claim plus a penalty.

DIGEST: HB 1914 would specify that for the purposes of calculating a penalty for health maintenance organizations and preferred provider benefit plans that

failed to pay claims submitted by out-of-network emergency care providers before the payment deadline, the contracted rate would be the usual and customary rate for the services in the geographic area in which the service was provided.

The bill would take effect September 1, 2019, and would apply only to a claim filed on or after that date.

SUPPORTERS SAY:

HB 1914 would close a loophole for penalties imposed on health insurance companies that fail to promptly pay emergency care claims to providers. Penalties for late payments currently are calculated based on the contract rate for in-network claims. Aligning this calculation with the usual and customary rate for out-of-network services would increase accountability of health insurance companies and ensure providers were fairly compensated. Clarifying that penalties for delayed payments applied to out-of-network emergency care also would help reduce mediations and lawsuits concerning unpaid claims.

OPPONENTS SAY:

HB 1914 would unnecessarily expand health insurance companies' penalty requirements for late payments to out-of-network emergency care services. Using the usual and customary rate for late claim payments could incentivize providers to increase their health care service charges.